

**Senate Bill No. 220**

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Passed the Senate August 31, 2010

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*Secretary of the Senate*

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Passed the Assembly August 30, 2010

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2010, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Sections 1367.002 and 1367.002.1 to the Health and Safety Code, and to add Sections 10112.2 and 10112.21 to the Insurance Code, relating to health care coverage.

## LEGISLATIVE COUNSEL'S DIGEST

SB 220, Yee. Health care coverage: preventive health services: tobacco cessation.

Existing law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms. With respect to plan years beginning on and after September 23, 2010, the act requires health insurance issuers to provide coverage, and not impose cost-sharing requirements, for certain preventive health services. PPACA also requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers, as specified.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requests the University of California to establish the California Health Benefits Review Program to assess legislation proposing to mandate a benefit or service and legislation proposing to repeal a mandated benefit or service, as specified.

This bill would require certain health care service plan contracts and health insurance policies issued, amended, renewed, or delivered on or after September 23, 2010, to provide coverage, and not impose cost-sharing requirements, for certain preventive health services consistent with federal law.

The bill would also require certain health care service plan contracts and health insurance policies issued, amended, renewed, or delivered on or after January 1, 2011, to provide coverage for tobacco cessation treatment that includes specified courses of treatment and medication. The bill would request the University of California, as part of the California Health Benefits Review

Program, to prepare a report regarding any state savings as a result of this coverage requirement. The bill would make the coverage requirement inoperative upon a determination that it will result in the state assuming additional costs, as specified.

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature hereby finds and declares the following:

(a) It is the intent of the Legislature that this act diminish the statewide economic and personal cost of tobacco addiction by making tobacco cessation treatments available to all smokers.

(b) Cigarette smoking and other uses of tobacco remain the leading cause of preventable death in California, as well as the cause of many other serious health problems, including heart disease, emphysema, and other chronic illnesses.

(c) The treatment of tobacco-related diseases continues to impose a significant burden on California's health care system, including local and state funded health care systems. Tobacco use costs Californians billions of dollars a year in medical expenses and lost productivity.

(d) Providing tobacco cessation counseling and medication is one of the most clinically effective and cost-effective health services available, second only to inoculations.

(e) Reducing the smoking rate in California by one percentage point will result in approximately \$91 million saved over five years from fewer smoking-caused heart attacks and strokes.

(f) The United States Public Health Service Clinical Practice Guideline entitled Treating Tobacco Use and Dependence has identified the medications and counseling that are scientifically proven to be effective in helping smokers quit.

SEC. 2. Section 1367.002 is added to the Health and Safety Code, to read:

1367.002. To the extent required by federal law, a group or individual health care service plan contract that is issued, amended, renewed, or delivered on or after September 23, 2010, shall comply with the requirements of Section 2713 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-13), as added by Section 1001 of the federal Patient Protection and Affordable Care Act (Public Law 111-148), and any subsequent rules or regulations issued pursuant to that section.

SEC. 3. Section 1367.002.1 is added to the Health and Safety Code, to read:

1367.002.1. (a) (1) A health care service plan contract issued, amended, renewed, or delivered on or after January 1, 2011, shall cover a minimum of two courses of treatment in a 12-month period for all smoking cessation treatments rated “A” or “B” by the United States Preventive Services Task Force, which shall include counseling and over-the-counter medication and prescription pharmacotherapy approved by the federal Food and Drug Administration.

(2) The coverage provided pursuant to this section shall only be available upon the order of an authorized provider. Nothing in this section shall preclude a health care service plan from allowing enrollees to access tobacco cessation services on a self-referral basis.

(3) As used in this section, “course of treatment” shall be defined to consist of the following:

(A) As applied to counseling, at least four sessions of counseling, which may be telephone, group, or individual counseling with each session lasting at least 10 minutes.

(B) As applied to a prescription or over-the-counter medication, the duration of treatment approved by the federal Food and Drug Administration for that medication.

(4) Enrollees shall not be required to enter counseling in order to receive tobacco cessation medications after the patient’s first course of treatment.

(5) A health care service plan may not impose prior authorization or stepped-care requirements on tobacco cessation treatments after the patient’s first course of treatment.

(b) This section shall not apply to Medicare supplement plan contracts or to specialized health care service plan contracts.

(c) The Legislature hereby requests that the University of California, as part of the California Health Benefits Review Program established under Section 127660, prepare a report by December 31, 2013, evaluating the requirements of this section and determining any state savings as a result of those requirements. The Legislature requests that this report be made available to the Legislature, the Department of Insurance, and the Department of Managed Health Care.

(d) This section shall become inoperative on the date that the state determines that, taking into account any state savings identified under subdivision (c), the requirements of this section will result in the state assuming additional costs pursuant to subparagraph (B) of paragraph (3) of subsection (d) of Section 1311 of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by subsection (e) of Section 10104 of Title X of that act.

SEC. 4. Section 10112.2 is added to the Insurance Code, to read:

10112.2. To the extent required by federal law, a group or individual health insurance policy that is issued, amended, renewed, or delivered on or after September 23, 2010, shall comply with the requirements of Section 2713 of the Public Health Service Act (42 U.S.C. Sec. 300gg-13), as added by Section 1001 of the Patient Protection and Affordable Care Act (Public Law 111-148), and any subsequent rules or regulations issued pursuant to that section.

SEC. 5. Section 10112.21 is added to the Insurance Code, to read:

10112.21. (a) (1) A health insurance policy issued, amended, renewed, or delivered on or after January 1, 2011, shall cover a minimum of two courses of treatment in a 12-month period for all smoking cessation treatments rated “A” or “B” by the United States Preventive Services Task Force, which shall include counseling and over-the-counter medication and prescription pharmacotherapy approved by the federal Food and Drug Administration.

(2) The coverage provided pursuant to this section shall only be available upon the order of an authorized provider. Nothing in this section shall preclude an insurer from allowing insureds to access tobacco cessation services on a self-referral basis.

(3) As used in this section, “course of treatment” shall be defined to consist of the following:

(A) As applied to counseling, at least four sessions of counseling, which may be telephone, group, or individual counseling with each session lasting at least 10 minutes.

(B) As applied to a prescription or over-the-counter medication, the duration of treatment approved by the federal Food and Drug Administration for that medication.

(4) Insureds shall not be required to enter counseling in order to receive tobacco cessation medications after the patient’s first course of treatment.

(5) A health insurer shall not impose prior authorization or stepped-care requirements on tobacco cessation treatments after the patient’s first course of treatment.

(b) This section shall not apply to Medicare supplement policies or to specialized health insurance policies.

(c) The Legislature hereby requests that the University of California, as part of the California Health Benefits Review Program established under Section 127660 of the Health and Safety Code, prepare a report by December 31, 2013, evaluating the requirements of this section and determining any state savings as a result of those requirements. The Legislature requests that this report be made available to the Legislature, the Department of Insurance, and the Department of Managed Health Care.

(d) This section shall become inoperative on the date that the state determines that, taking into account any state savings identified under subdivision (c), the requirements of this section will result in the state assuming additional costs pursuant to subparagraph (B) of paragraph (3) of subsection (d) of Section 1311 of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by subsection (e) of Section 10104 of Title X of that act.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

the meaning of Section 6 of Article XIII B of the California Constitution.

Approved \_\_\_\_\_, 2010

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*Governor*